

### REMARKS

Favorable reconsideration of this Application, as presently amended and in light of the following discussion, is respectfully requested.

After the foregoing amendment, Claims 1-20 remain pending in the present Application. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1-20 stand rejected under 35 U.S.C. § 102 as being anticipated by Downs et al. (U.S. Patent No. 6,226,618, hereinafter Downs)

### REJECTION UNDER 35 U.S.C. § 102

The Official Action has rejected Claims 1-20 under 35 U.S.C. § 102 as being anticipated by Downs. The Official Action states that Downs discloses all the Applicants' claim limitations as presently recited. Applicants respectfully traverse the rejection.

Amended Claim 1 recites, *inter alia*, an information vending apparatus including:

usage condition generating means for generating usage conditions in response to a purchase selection of the information for sale; . . . authentication means for authenticating a recording medium directly or indirectly loaded on said information vending apparatus; and, writing means for writing said purchase selection to said recording medium authenticated by said authentication means along with said usage conditions and said cryptographic key. (emphasis added)

Downs describes a digital content distribution platform (100). The platform enables content providers (101) to distribute content to customers via a transmission infrastructure (107) and hosting cite (111) (*See* Fig. 1D).<sup>1</sup> Specifically, content is packaged to form secure containers (SC) for delivery. For example, as outlined Downs at Steps 142-148 of column 19, a user purchasing a secure container initiates a series of communications to decrypt the

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<sup>1</sup> Downs at column 8, line 55 through column 9, line 3.

secure container by accessing encryption keys of a clearing house (105) for obtaining a symmetric key for decrypting content.

Conversely, in an exemplary embodiment of the Applicants' invention, content is selected from a list of available content by a user via a vending apparatus. Upon selection of content for purchase, usage conditions are generated along with an encryption key for decrypting the encrypted, selected content. Upon authentication of an appropriate recording medium, the purchase selection, along with the cryptographic key, are recorded to the recording medium. In this way, the consumer can store the selected content from the vending apparatus by providing a recording medium compatible with a predetermined Digital Rights Management (DRM) format to the vending apparatus.<sup>2</sup>

Moreover, Downs does not disclose or suggest generating usage rules and an encryption key in response to a purchase selection. As noted in the outstanding Official Action, licensing authorization and control are implemented through the use of a clearing house entity and secure container (SC) technology.<sup>3</sup> In support of this assertion, the Official Action cites column 7, lines 11-55 of Downs, which notes that "the clearing house(s) provides licensing authorization by enabling intermediate or end-user(s) to unlock content after verification of a successful completion of a licensing transaction" (emphasis added). As can be appreciated, the decryption keys provided from the clearing house(s) are not provided based upon the authentication of a recording medium by a vending apparatus, but, instead, upon a successful completion of a licensing transaction. The ability of Applicants' vending apparatus to authenticate a recording medium prior to loading content and encryption keys to the recording medium enables the Applicants' vending device to ensure that content provided

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<sup>2</sup> Application at Figs. 3 and 6, and associated description in the specification.

<sup>3</sup> Official Action at page 4.

from the device cannot be subsequently copied without the Digital Rights Management protection provided. This is because the medium is authenticated to ensure that the usage rules are supported by the recording medium.<sup>4</sup>

Downs does not disclose or suggest providing the usage rules, encryption key and content to a recording medium authenticated by the vending apparatus as recited in Claim 1 or any claim depending therefrom by virtue of dependency. As Claims 10 and 19 recite substantially similar limitations as discussed above, Applicants submit that these claims, and any claims depending therefrom, are likewise allowable. Therefore, Applicants respectfully request that the rejection of Claims 1-19 under 35 U.S.C. § 102 be withdrawn.

#### CONCLUSION

**Should the Examiner continue to disagree with the above distinctions, Applicants respectfully request that the Examiner provide an explanation via Advisory Action pursuant to MPEP § 714.13 specifically rebutting the points raised herein for purposes of facilitating the appeal process.**

**Please note in accordance with the discussion herein, should the rejections in the Official Action of August 10, 2005 be maintained, Applicants intend to request a Pre-Brief Appeal Conference in accordance with the pilot program outlined in the Official Gazette Notice of July 12, 2005.**


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<sup>4</sup> See Specification at page 23, second full paragraph.

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-20, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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